

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

MYRON A. MANIER,

Plaintiff,

vs.

DEPARTMENT OF CORRECTION,
WASHINGTON STATE, WARDEN
JEFF UTECK, SANDI JACOB, C/O
CHAD BARCLAY, C/O DAVE
PROCK, and C/O RUSSELL P.
MICHAEL,

Defendants.

NO. CV-08-5024-RHW

ORDER DISMISSING COMPLAINT

1915(g)

By Order filed June 11, 2008, the Court advised Plaintiff of the deficiencies of his complaint and directed him to amend or voluntarily dismiss within sixty (60) days. A copy of that Order was sent to Plaintiff at the Washington State Penitentiary, but it was returned as undeliverable on June 18, 2008. An attempt was also made to mail a copy of the Order to Plaintiff at the Washington Corrections Center in Shelton, Washington. Plaintiff is proceeding *pro se* and *in forma pauperis*; Defendants have not been served.

The Court cautioned Plaintiff that failure to amend would result in dismissal of his complaint. Plaintiff did not comply and has filed nothing further in this action. Although granted the opportunity to

1 do so, Plaintiff has failed to present facts from which the Court
2 could infer his confinement in solitary confinement, for an
3 undisclosed amount of time, "impose[d] atypical and significant
4 hardship on the inmate in relation to the ordinary incidents of prison
5 life," sufficient to invoke procedural due process protections under
6 *Sandin v. Conner*, 515 U.S. 472, 484 (1995). Accordingly, **IT IS**
7 **ORDERED** the complaint is **DISMISSED with prejudice** for failure to state
8 a claim upon which relief may be granted under 28 U.S.C. §§
9 1915A(b)(1),(2) and 1915(e)(2).

10 Pursuant to 28 U.S.C. § 1915(g), enacted April 26, 1996, a
11 prisoner who brings three or more civil actions or appeals which are
12 dismissed as frivolous or for failure to state a claim will be
13 precluded from bringing any other civil action or appeal *in forma*
14 *pauperis* "unless the prisoner is under imminent danger of serious
15 physical injury." 28 U.S.C. § 1915(g). Plaintiff is advised to read
16 the new statutory provisions under 28 U.S.C. § 1915. This dismissal
17 of Plaintiff's complaint may count as one of the three dismissals
18 allowed by 28 U.S.C. § 1915(g) and may adversely affect his ability to
19 file future claims.

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1 **IT IS SO ORDERED.** The District Court Executive is directed to
2 enter this Order, forward a copy to Plaintiff at his last known
3 address, enter judgment, and **close the file**. The District Court
4 Executive is further directed to forward a copy of this Order to the
5 Office of the Attorney General of Washington, Criminal Justice
6 Division.

7 **DATED** this 29th day of August 2008.

8
9 s/Robert H. Whaley
10 ROBERT H. WHALEY
11 CHIEF UNITED STATES DISTRICT JUDGE

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